

THE HONORABLE BRIAN D. LYNCH
CHAPTER 13
HEARING DATE: October 17, 2018
HEARING TIME: 1:30 P.M.
LOCATION: Tacoma, Washington
RESPONSE DATE: October 10, 2018

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

In re: Case No.: 18-42729-BDL

GECOVA McDOWELL DOYAL III
and
DAWN MARIE DOYAL,

OBJECTION TO CONFIRMATION WITH
STRICT COMPLIANCE

Debtors.

COMES NOW, Michael G. Malaier, Chapter 13 Standing Trustee, and objects to confirmation as follows:

BACKGROUND

Debtors filed this Chapter 13 case on August 9, 2018. The applicable commitment period is sixty months. The case is currently in the second month and the Meeting of Creditors has not yet been completed. The bar date for filing non-governmental claims is October 18, 2018. Scheduled unsecured claims total \$139,819.91, and scheduled priority claims total \$12,800.00. The plan as filed proposes 100% repayment to general unsecured filed and allowed claims.

OBJECTION TO CONFIRMATION

Michael G. Malaier
Chapter 13 Standing Trustee
1551 Broadway, Suite 600
Tacoma, WA 98402
(253) 572-6600

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OBJECTION

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- Plan does not meet the best interests of creditors test as required by 11 U.S.C. § 1325(a)(4):

Trustee believes Debtors' residence is worth approximately \$555,016.00, which is significantly higher than Debtors' value of \$459,496.00. Based on Trustee's estimate there is approximately \$39,000.00 of non-exempt equity in the residence.

Absent additional evidence of value being produced by Debtors, Trustee will proceed with having the residence appraised. While Debtors propose a 100% plan, the current liquidation value of the plan is only \$484.00.

- Other:

- (1) Per the Court's recent oral ruling in *In re Frazier*, 17-44188-BDL, United States Bankruptcy Court, Western District of Washington, Trustee does not believe that Debtors' plan can be confirmed while proposing to pay Debtors' student loan directly, even if the remainder of Debtors' general unsecured claims are to be paid at 100%. Debtors' plan should be amended to bring payment of the student loan into the plan.
- (2) Debtors have not filed all required tax returns. Prior to confirmation a debtor must have "filed all applicable Federal, State, and local tax returns as required by section 1308." 11 U.S.C. § 1325(a)(9). Under section 1308(a), a debtor must file all applicable tax returns for the 4-year period ending on the date of the filing of the petition. Pursuant to the Internal Revenue Service's Proof of Claim (Claim 10-1), Debtors have not filed the 2016 and 2017 tax returns. Confirmation should be denied until such time as the returns are filed.

WHEREFORE, Trustee requests that the objection to confirmation be sustained and debtors be ordered to file a motion to confirm a plan resolving the issues raised herein within 14 days of entry of the Order Sustaining Trustee's Objection to Confirmation; and to set the hearing on the next available motion calendar after the 14 days expires. If the Motion to

1 Confirm resolving the Trustee's issues is not filed and set for hearing as outlined above, the
2 Trustee requests he be allowed to enter an order dismissing the case, *ex parte*, without notice.

3 **DATED** this 1st day of October, 2018.

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6 Mathew S. LaCroix, WSBA# 41847 for
7 Michael G. Malaier, Chapter 13 Trustee
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